

RD AN No. 3951 (1944-E)
March 3, 2004

TO: State Directors
Rural Development

ATTENTION: MFH Program Directors and Coordinators

FROM: Arthur A. Garcia *(Signed by Arthur A. Garcia)*
Administrator
Rural Housing Service

SUBJECT: Processing Section 515 New Construction Loan Requests
Fiscal Year 2004

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on processing section 515 loan requests in accordance with RD Instruction 1944-E and the Notice that was published in the Federal Register on February 6, 2004.

COMPARISON WITH PREVIOUS AN:

This AN replaces AN No. 3813 (1944-E), dated December 31, 2002.

IMPLEMENTATION RESPONSIBILITIES:

Section 515 new construction loan requests must be processed in accordance with RD Instruction 1944-E and the "Notice of Timeframe to Submit Applications for the Section 515 Rural Rental Housing Program for Fiscal Year 2004" (Notice) published in the Federal Register on February 6, 2004. Complete loan requests received by the deadline announced in the Notice will be reviewed and scored based upon the factors in § 1944.231(b)(3)(ii) of RD Instruction 1944-E, as discussed in more detail in this AN under "Loan scoring factors".

EXPIRATION DATE:
September 30, 2004

FILING INSTRUCTIONS:
Preceding RD Instruction 1944-E

PROCESSING TIMEFRAMES:

April 6, 2004: Final date for receipt of applications (COB, local time).

April 9, 2004: Deadline for States to submit preliminary report of applications received, using attachment 1 to this AN. At a minimum, list the applicant's name, number of units, number of rental assistance (RA) units requested, and Rural Housing Service (RHS) loan amount requested. If no applications were received, please so indicate on the report. (Fax to 202-690-3444 or e-mail to barbara.chism@usda.gov.)

May 10, 2004: Deadline for States to score and rank applications and complete the preliminary eligibility and feasibility review in accordance with § 1944.231(b)(5) of RD Instruction 1944-E.

May 14, 2004: Deadline for States to submit final list of applications to the National office with point score sheet and leveraged assistance worksheet (attachments 1, 2, and 3 to this AN). On attachment 1, include both the ranking number and point score. For point score ties, establish the ranking number in accordance with § 1944.231(b)(4) of RD Instruction 1944-E. Applications that are eligible for more than one funding category should be listed in all appropriate categories. In a separate section or on a separate page, list (but do not score or rank) incomplete applications or those that were determined not eligible or feasible, and annotate accordingly. (Fax to 202-690-3444 or e-mail to barbara.chism@usda.gov.)

The National office will rank applications nationwide and advise States of the results as soon as possible following the May 14 deadline.

August 13, 2004: Pooling date for Section 515 funds. Deadline for obligating funds or obtaining National Office approval of extension.

IMPORTANT PROVISIONS OF THE NOTICE:

Applications may be submitted for regular section 515 funds; the Nonprofit Set-Aside; the Underserved Counties and Colonias Set-Aside; and the Empowerment Zone (EZ), Enterprise Community (EC), and Rural Economic Area Partnership (REAP) Set-Aside.

Individual loan requests may not exceed \$1 million, including requests for the Set-Asides. The Administrator may make an exception to this limit in cases where a State's average total development costs exceed the National average by 50 percent or more. States may not set a lower limit than the \$1 million National limit.

States may receive a maximum combined total of \$2.5 million from regular Section 515 funds and set-aside funds. State RA reserve funds are not included in this cap.

LOAN SCORING FACTORS:

Loan requests will be scored on the factors listed below. The optional National initiative (§ 1944.231(b)(3)(ii) of RD Instruction 1944-E) for FY 2004 is the same as that used in FY 2003. The State resource must be at least 5 percent of the total development cost (see italicized language in number 4 below). The optional State factor will not be used this year.

1. **Leveraged assistance.** The presence and extent of leveraged assistance. (0 to 20 points) (Details on “Leveraged assistance” are given below.)

2. **High need communities.** The loan request is for units to be developed in a colonia, tribal land, EZ/EC or REAP community, or in a place identified in the state Consolidated Plan or state needs assessment as a high need community for multi-family housing. (As a point of clarification, “state” in “state Consolidated Plan” and “state needs assessment” refers to the state government.) (20 points)

3. **Donated land.** The loan request includes donated land meeting the provisions of § 1944.215(r)(4) of RD Instruction 1944-E. (5 points)

4. **National initiative.** In states where RHS has an on-going formal working relationship, agreement, or Memorandum of Understanding (MOU) with the State to provide State Resources (State funds, State RA, HOME funds, Community Development Block Grant (CDBG) funds, or Low Income Housing Tax Credits (LIHTC)) for RHS proposals; or where the State provides preference or points to RHS proposals in awarding these State resources, points will be provided to loan requests that include such State Resources *in an amount equal to at least 5 percent of the total development cost*. NAHASDA (Native American Housing and Self Determination Act) funds may be considered a State Resource if the Tribal Plan for NAHASDA funds contains provisions for partnering with RHS for multifamily housing. (20 points)

The agreement or MOU must be in place by the close of the Notice of Funding Availability. Documentation must be submitted to the National office for concurrence. Both conditions of the initiative must be met for an application to receive points for this factor, i.e., the agreement or MOU must be in place and the application must include the State resource in an amount equal to at least 5 percent of the total development cost.

LEVERAGED ASSISTANCE:

Any contribution from the applicant *above his or her required contribution on the RHS loan*, including tax credit proceeds, is eligible for consideration for points as long as there is an equal or positive impact on basic rents. Contributions must meet the conditions of § 1944.215(n)(1) and (n)(2) of RD Instruction 1944-E.

1. **General provisions for leveraged assistance.** All leveraged assistance must meet the provisions of RD Instruction 1944-E, § 1944.233, “Participation with other funding sources.”

2. **Provisions pertaining to points for leveraged assistance.** In addition to meeting the requirements of § 1944.233, the following conditions must be met to receive points for leveraging under § 1944.231(b)(3)(ii) of RD Instruction 1944-E.

a. The leveraged assistance may be one of the following:

(1) Loans or grants from other sources.

(2) Contributions (including land) from the borrower’s own resources above the required contribution indicated by the Sources and Uses Comprehensive Evaluation. These contributions must meet the conditions of § 1944.215(n)(1) and (n)(2), i.e., the contributions must be from the borrower’s own resources and cannot exceed the security value of the project.

(3) Tax abatements or other savings in operating costs provided that, at the end of the abatement period when the benefit is no longer available, the basic rents are comparable to or lower than the basic rents if RHS had provided full financing.

b. The leveraged assistance must finance units for RHS income-eligible tenants to receive points. For example, if the developer is building a mixed income complex, only the portion of leveraged assistance that is being used to finance units for RHS income-eligible tenants will be considered in determining points.

c. The basic rents for the units financed by RHS must be comparable to what the basic rents would be if RHS provided full financing.

CALCULATION OF LEVERAGED ASSISTANCE WORKSHEET:

For each proposal with leveraged assistance meeting the above conditions, complete attachment 3 of this AN, "Calculation of Leveraged Assistance Worksheet", and provide a copy to the National office with the final list of scored and ranked applications (attachment 1 to this AN). Attachment 4 is an example of a completed worksheet.

DONATED LAND:

In accordance with § 1944.231(b)(3)(ii)(C)(5) of RD Instruction 1944-E, 5 points may be awarded for land that is donated by States, units of local government, public bodies, and nonprofit organizations and meets the conditions listed in § 1944.215(r)(4). Points may also be awarded for leveraging for the value of the land that exceeds the borrower's required contribution under § 1944.231(b)(3)(ii)(C)(1), provided the conditions of § 1944.215(n)(2) are met, i.e., the value of the site, when added to the loan and grant amount from all sources, does not exceed the security value of the project.

BORROWER CONTRIBUTION AND DETERMINING RETURN ON INVESTMENT: PROJECT FEASIBILITY:

Borrower contributions, including contributions above the required 3 or 5 percent of the RHS loan, that meet the conditions of § 1944.215(n) of RD Instruction 1944-E are potentially eligible to earn a return on investment (ROI). Briefly, § 1944.215(n) states that the contributions must be from the borrower's own resources and cannot exceed the security value of the project. However, meeting these conditions does not automatically entitle the borrower to a ROI. Paying a ROI on amounts above the required 3 or 5 percent contribution must also be considered in terms of project feasibility and the impact on basic rents and rental assistance.

If RA is being provided, and paying the ROI on the additional investment would increase basic rents and RA costs over the rents and RA costs if the project had received full RHS financing, the ROI cannot be allowed, since RA may only be provided on units where the basic rent does not exceed rents with full RHS financing (§ 1944.233(a)(3) of RD Instruction 1944-E). The borrower may wish to provide additional funds without the ROI or to accept a reduced ROI, if feasible in terms of basic rents and RA. If RA is not being provided, the ROI must not cause basic rents to exceed rents for comparable units in the market.

ANALYSIS OF LOAN REQUESTS TO DETERMINE THE MINIMUM AMOUNT OF ASSISTANCE:

All loan requests must be analyzed at the feasibility stage and again prior to obligation to determine the minimum amount of assistance that is needed for the proposal, using an analysis tool that considers the sources and uses of all assistance proposed, i.e., all loans, grants, Low Income Housing Tax Credits (LIHTC), and any other assistance. The State Director is responsible for sharing information on projects that are allocated LIHTC with the state agency that administers LIHTC.

As required by § 1944.213(a)(2)(ii) of RD Instruction 1944-E, in instances where the analysis of the loan request indicates that excess assistance is being provided, RHS must consult with the applicant and the State Agency administering tax credits to attempt to reduce the excess assistance. Excess assistance is defined as an amount *greater than* the lesser of \$25,000 or 1 percent of the total development cost (TDC) as authorized by the State Agency.

Options for reducing excess assistance include reducing the amount of tax credits; reducing the level of funding from one or more of the funding sources; or revising the uses to include eligible costs for any funding participant, provided the enhancement will assist the tenants and is consistent with the intent of the Rural Rental Housing (RRH) program to provide modest housing. If an agreement cannot be reached, RHS will adjust the amount of equity contribution by the amount of excess assistance (through the reduction of the loan) to ensure that assistance provided is not more than necessary.

PROJECT DESIGNATION AND BEDROOM MIX:

The preliminary review of loan requests must include a review of the market to determine if the loan request reflects the project type (family or elderly) of greatest proportionate need, and whether the proposed bedroom mix reflects the needs in the market area. Refer to RD AN No. 3923 (1944-E) dated December 4, 2003, and Exhibit A-7 of RD Instruction 1944-E, for detailed guidance.

COMMUNITY ROOMS:

States are reminded to inform potential applicants that modest community rooms in section 515 complexes are highly encouraged to provide a place for special activities and services that will aid residents in improving job skills or education, as well as to provide a space for resident and community meetings.

Questions regarding this AN may be directed to the Multi-Family Housing Processing Division at (202) 720-1604.

Attachments

**SECTION 515 APPLICATION REVIEW CHECKLIST AND POINT SCORE SHEET
FY 2004**

<u>Applicant information:</u>	
Applicant Name: _____	Date and time received: _____
Project Name: _____	Applicant type: _____
City: _____ County: _____	Number of units: ____ RA units ____
	Congressional District: _____

<p><u>Application threshold requirements:</u> Application meets preliminary threshold requirements (received by COB, XXXXXXXX, 2004; contains all requirements of Exhibit A-7 of RD Instruction 1944-E; and is for an eligible purpose). (Yes/No): _____ Comments: _____</p>

<u>Application scoring:</u>	
1. Leveraged assistance. (0-20 points) (Attach "Calculation of Leveraged Assistance Worksheet")	_____
2. High need community. The units will be developed in a colonia, tribal land, EZ, EC, or REAP community, or in a place identified in the state Consolidated Plan or state needs assessment. (20 points)	_____
3. Donated land. The loan request includes donated land meeting the provisions of § 1944.215(r)(4). (5 points)	_____
4. National initiative. The loan request includes a State resource such as State funds, State RA, HOME funds, CDBG funds, or LIHTC; and RHS has a formal working relationship, agreement, or MOU with the State to provide such resources to RHS proposals or to give preference or points to RHS proposals in awarding such resources. (20 points)	_____
Total point score	_____

<u>Estimated funding:</u>	
RHS loan amount	\$ _____
Leveraged funds:	
Source _____	\$ _____
Total Development Cost:	\$ _____

<p><u>Review comments:</u> _____</p> <p>_____</p> <p>_____</p>
<p>Reviewer: _____ Date of Review: _____</p>

<p><u>National ranking results:</u> Selected for further processing based on National ranking (Yes/No): _____ Date: _____</p>
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**SECTION 515
CALCULATION OF LEVERAGED ASSISTANCE WORKSHEET**

Applicant Name: _____ Project Name: _____

1. Borrower total development cost (TDC)		\$ _____
2. Non-RHS eligible costs such as audit reserve, developer's fee, organizational or accounting fees.		\$ _____
3. Adjusted TDC (line 1 minus line 2)		\$ _____
4. Multiply by percentage of units that will serve RHS income eligible tenants _____% =		
5. RHS TDC		\$ _____
6. Applicant funds and leveraged assistance. Include all applicant funds and leveraged assistance such as loans, grants, land, tax abatements, etc., meeting the provisions of § 1944.233 and § 1944.231(b)(3)(ii)(C)(1) .		
<i>Source:</i>	<i>Amount:</i>	
RHS loan requested*	_____	
_____	_____	
_____	_____	
_____	_____	
7. Total funds for TDC plus operating cost savings		\$ _____
8. Minus ineligible costs from line 2 (\$_____) =		\$ _____
9. Multiply by percentage of units that will serve RHS income eligible tenants _____ %		\$ _____
10. Subtract RHS loan and required borrower contribution based on 95, 97 or 100 percent of RHS loan		\$ _____
11. Leveraged assistance eligible for points		\$ _____
12. Percentage of leveraged assistance (line 11 divided by line 5)		_____ %
13. Points for leveraging based on the following chart: (Round up for .50 and above; round down for .49 and below. For example, 59.49 becomes 59; 59.50 becomes 60.)		_____

<i>Percentage:</i>	<i>Points:</i>	<i>Percentage:</i>	<i>Points:</i>
75 or more	20	35-39	12
70-74	19	30-34	11
65-69	18	25-29	10
60-64	17	20-24	9
55-59	16	15-19	8
50-54	15	10-14	7
45-49	14	5-9	6
40-44	13	0-4	0

Reviewer: _____ Date: _____

* Can't exceed smaller of RHS TDC or appraised value X 95, 97, or 102 percent, OR the RHS \$1 million National cap. When the appraised value is established, it may be necessary to adjust the RHS loan.

EXAMPLE
SECTION 515

Attachment 4

CALCULATION OF LEVERAGED ASSISTANCE WORKSHEET

Applicant Name: _____ Project Name: _____

1. Borrower total development cost (TDC)	\$ 2,500,000
2. Non-RHS eligible costs such as audit reserve, developer's fee, organizational or accounting fees).	\$ 400,000
3. Adjusted TDC (line 1 minus line 2)	\$ 2,100,000
4. Multiply by percentage of units that will serve RHS income eligible tenants <u>100 %</u>	
5. RHS TDC	\$ 2,100,000
6. Applicant funds and leveraged assistance. Include all applicant funds and leveraged assistance such as loans, grants, land, tax abatements, etc., meeting the provisions of § 1944.233 and § 1944.231(b)(3)(ii) (C)(1).	
<i>Source:</i>	<i>Amount:</i>
RHS loan requested*	\$ 1,000,000
HOME loan	250,000
HOME grant	150,000
20-yr tax abatement	500,000
applicant funds/LIHTC	1,100,000
7. Total funds for TDC plus operating cost savings	\$ 3,000,000
8. Less ineligible costs from line 2 (\$400,000) =	\$ 2,600,000
9. Multiply by percentage of units that will serve RHS income eligible tenants <u>100 %</u>	\$ 2,600,000
10. Subtract RHS loan and required borrower contribution based on 95, 97 or 100 percent of RHS loan (1,000,000/.95)	\$ 1,052,632
11. Leveraged assistance eligible for points	\$ 1,547,368
12. Percentage of leveraged assistance (line 11 divided by line 5)	74 %
13. Points for leveraging based on the following chart: (Round up for .50 and above; round down for .49 and below. For example, 59.49 becomes 59; 59.50 becomes 60.)	19
<i>Percentage:</i>	<i>Points:</i>
75 or more	20
70-74	19
65-69	18
60-64	17
55-59	16
50-54	15
45-49	14
40-44	13
<i>Percentage:</i>	<i>Points:</i>
35-39	12
30-34	11
25-29	10
20-24	9
15-19	8
10-14	7
5-9	6
0-4	0

Reviewer: _____ Date: _____

* Can't exceed smaller of RHS TDC or appraised value X 95, 97, or 102 percent, OR the RHS \$1 million National cap. When the appraised value is established, it may be necessary to adjust the RHS loan.